HIGH COURT OF CHHATTISGARH: BILASPUR

Writ Petition No. 3664 of 2004

Petitioner

Kanti Kumar Sahu, aged about 23 years, S/o. Late Shri Khedram Sahu, R/o. Village & P.O. Sarwani Via Bamnidih, Dist. Janjgir – Champa, CG.

Versus

Respondents

1) State of Chhattisgarh, through Secretary, General Administration Department, Mantralaya, D.K.S. Bhawan, P.O. & Dist. Raipur, CG.

2) District Education Officer, Janjgir-Champa (CG).

3) Block Education Officer, Bamnidih, Dist. Janjgir-Champa, CG.

4) State of Madhya Pradesh, through Secretary, General Administration Department, Vallabh Bhawan, Bhopal, M.P.

5) Union of India, through Secretary, State Re-organization Parliament House, New Delhi.

(Writ Petition under Article 226/227 of the Constitution of India)

**SB: Hon'ble Shri Justice Satish K. Agnihotri**

Present:

Smt. Meera Jaiswal, counsel for the petitioner
Shri Sushil Dubey, Govt. Advocate, for respondents No. 1 to 3/State.
Shri S.K. Beriwal, counsel for respondent No.5.
None for respondent No.4

**ORAL ORDER**
**(Passed on 2nd May, 2007)**

Learned counsel appearing for the petitioner submits that the father of the petitioner, while working as Assistant Teacher in the

Naveen Primary Government School, Pasrapali, Bamnidih, died on 27-3-1994 in harness.

2. The father of the petitioner died on 27-3-1994 and the petitioner has filed this petition on 1-10-2004 after a period of more than ten years.

3. It is well settled that compassionate ground is not a method of recruitment, but is a facility to provide for immediate rehabilitation of the family in distress for relieving the dependent family members of the deceased employee from destitution. In other words, the object of compassionate appointment is to enable penurious family to tide over the sudden financial crisis and is not to provide employment. It is also well settled that mere death of the employee does not entitle his family to claim compassionate appointment if the family members could sustain themselves financially from other sources of income.

4. The Supreme Court in **State of J.&K and others Vs. Sajad Ahmed Mir, (2006) 5 SCC 766,** after having considered all the aspects of compassionate appointment, in para 11 observed as under:

> "11..... It is that such an appointment is an exception to the general rule. Normally, an employment in the Government or other public sectors should be open to all eligible candidates who can come forward to apply and compete with each other. It is in consonance with Article 14 of the Constitution. On the basis of competitive merits, on appointment should be made to public office. This general rule should not be departed from except where compelling circumstances demand, such as, death of the sole breadwinner and likelihood of the family suffering because of the setback. Once it is proved that in spite of the death of the

breadwinner, the family survived and substantial period is over, there is no necessity to say "goodbye" to the normal rule of appointment and to show favour to one at the cost of the interests of several others ignoring the mandate of Article 14 of the Constitution."

5. It is thus clear from the decision cited above that the petitioner cannot claim compassionate appointment as a right of inheritance.

6. Applying well settled principle of law to the facts of the present case, the father of the petitioner died on 27-3-1994, thereafter, the petitioner did not make an application for about six years and this petition was filed after more than ten years from the date of death of the father of the petitioner. Thus, family members of the deceased employee could sustain themselves from other source of income for such a long period, as such, granting of compassionate appointment, at this stage, would not be in consonance with the Article 14 of the Constitution.

7. For the reasons mentioned hereinabove, the writ petition is dismissed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Raju